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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,409

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Alan Eddleston

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EXAMINER

POLLICOFF, STEVEN B

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/782,409	Applicant(s) EDDLESTON ET AL.	
	Examiner Steven B. Pollicoff	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,7-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson et al., (US Pat 4,488,468).

With respect to claim 1, Peterson disclose a case (Peterson Fig 9, ref 10) capable of holding rack mounted equipment comprising a body tube (Fig 2 generally) having two ends, a connector panel (Fig 9 ref 134) secured to the body tube at a first end (32), and a removable lid (34) at at least the first end for access to the rack mounted equipment within, wherein a surface of the connector panel is recessed relative to an outer profile of the case.

With respect to claim 2, Peterson discloses that a portion of the removable lid has a height less than that of the tallest height of the case (Fig 2 at ref 34), and the connector panel surface is recessed relative to the portion of the removable lid having a height less than that of the tallest height of the case (Fig 9 at ref 134).

With respect to claim 3, Peterson discloses that the connector panel surface is positioned above or below the portion of the removable lid having a height less than that of the tallest height of the case. In an open position, the connector panel is above the

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removable lid (see Fig 9 generally). In a closed position the removable lid is above the control panel.

With respect to claim 4, Peterson discloses a removable lid on the other end, the removable lid on the other end extending a full height of the tallest height of the case (Fig 1 and 2 ref 22).

With respect to claim 7, Peterson discloses that the connector panel is recessed inwardly (Fig 9 at ref 134) relative to an outer profile of the case so as to close the first end (Fig 1 and 2 at ref 34).

With respect to claim 8, Peterson discloses a case for rack mounted equipment having a removable lid on an end (Fig 9 ref 34), and a connector panel (ref 134) on the same end that is recessed relative to the removable lid.

With respect to claim 9, Peterson discloses that the connector panel surface is permanently secured to the case (Fig 2 at ref 36 and 38).

With respect to claim 11, Peterson discloses that the case includes a plurality of latches for removably connecting each lid to the case (Fig 9 ref 28,30,40 and 42).

Claims 1,8,10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Becklin (US Pat 3,482,895).

With respect to claims 1 and 8, Becklin discloses an equipment case comprising a body tube (Becklin Fig 1, reference number 10) having two ends, a connector panel secured to the body tube at a first end (at reference numbers 56 and 58), and a removable lid at at least one end (16), wherein a surface of the connector panel is

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recessed relative to an outer profile of the case and relative to the removable lid (see front face of panels 48a and 48b).

With respect to claim 10, Becklin discloses that the case includes a plurality of feet (Fig 2 reference number 32) located on a bottom surface of the case, and a plurality of feet locators (34) positioned on a top surface of the case, each foot being shaped to nest within a respective foot locator, the feet and feet locators being arranged in a substantially identical pattern to facilitate stable stacking of one equipment case on another (column 2, lines 35-47).

With respect to claim 11, Becklin discloses that the case also includes a plurality of latches (Fig 1 reference number 26) for removably connecting each lid to the case.

Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Valles (US Pat 3,544,751).

With respect to claims 1,7 and 8, Valles discloses a case comprising a body tube (Valles Fig 2, reference number 8) having two ends, a connector panel (2) secured inboard to the body tube at a first end, closing the first end (at reference number 4), and a removable lid at at least one end (3), wherein a surface of the connector panel is recessed relative to an outer profile of the case and relative to the removable lid (Fig 1 generally).

With respect to claims 2,3 and 9, Valles discloses that the case has a reduced-height, removable lid on the first end, and the connector panel surface, permanently attached to the case, is recessed above or below the reduced-height lid.

Claims 1-6,8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Be (Pub No US 2002/0113386).

With respect to claims 1,8 and 9, Be discloses a case comprising a body tube (Be Fig 1, reference number 1) having two ends, a connector panel (Fig 8 surface at reference number 2) permanently secured to the body tube at a first end, and a removable lid (2) at at least one end, wherein a surface of the connector panel is recessed relative to an outer profile of the case and relative to the removable lid (Fig 2 reference number 104 projects out and over recessed control panel 2).

With respect to claims 2 and 3, Be discloses a reduced height removable lid (Fig 1 reference number 104) on the first end and the connector panel surface is recessed above or below the reduced height lid (outer surface at reference number 2 recessed from portion 104).

With respect to claims 4,5 and 6, Be discloses a case having a full-height, removable lid on the other end (2') and a second recessed connector panel surface (outer surface at reference number 2' recessed from portion 104).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US Pat 4,488,468) in view of Becklin (US Pat 3,482,395).

With respect to claim 10, Peterson does not disclose that the case includes a plurality of feet located on a bottom surface of the case, and a plurality of feet locators positioned on a top surface of the case, each foot being shaped to nest within a respective foot locator, the feet and feet locators being arranged in a substantially identical pattern to facilitate stable stacking of one equipment case on another. However, Becklin discloses a case including a plurality of feet located on a bottom surface of the case (Becklin Fig 2 ref 34), and a plurality of feet locators (Fig 2 ref 32) positioned on a top surface of the case, each foot being shaped to nest within a respective foot locator (Fig 4 generally at 32 and 34), the feet and feet locators being arranged in a substantially identical pattern to facilitate stable stacking of one equipment case on another. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the case of Peterson to include a plurality of feet and feet locators, as taught by Becklin, for the purpose of securely

stacking multiple instrument cases in a horizontal position during use or transit (column 2, lines 40-43).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-4 and 7-11 have been considered and are not persuasive as to the Becklin and Valle rejections. However, because Applicant amended the claims, Examiner has applied new grounds of rejection to address the claim amendments. Applicant's arguments in view of the Be rejection are also moot in view of the new ground(s) of rejection.

Applicant's arguments filed 09/06/2006 with respect to the rejection of claims 1,8,10 and 11 by Becklin have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention (i.e. a connector panel), it is noted that the features upon which applicant relies (i.e., the connector panel's cable, electrical or other fittings) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, inasmuch as Applicant claims a connector panel, Becklin also discloses a connector panel. Additionally, Applicant argues that the connector panel is not recessed relative to an outer profile of the case. This is unpersuasive because clearly, the connector panels (Fig 2 ref 48a,b) front faces are recessed relative to (i.e. set back from) an outer profile of the case.



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Applicant's arguments filed 09/06/2006 with respect to the rejection of claims 1-3 and 7-9 in view of Valles have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention (i.e. a connector panel), it is noted that the features upon which applicant relies (i.e., the connector panel's cable, electrical or other fittings) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, inasmuch as Applicant claims a connector panel, Valles also discloses a connector panel. In response to applicant's arguments, the recitation "for rack mounted equipment" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process **or the intended use of a structure**, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Therefore, Valles still teaches all of the structural limitations of the claims rejected.

Applicant's arguments with respect to the rejection of claims 1-4, 8 and 9 in view of Be have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For


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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SBP

  
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